

Nebraska Motor Fuel Tax Laws General Information

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For more information, check our Web
site: www.revenue.ne.gov/fuels



The purpose of this information guide is to provide a general overview of the Nebraska Motor Fuels Tax Laws. It is not designed to answer all questions that might arise, but is intended to enable a person to become familiar with the Nebraska Motor Fuels Tax Laws.

GENERAL

Basis for Tax

Nebraska imposes an excise tax on each gallon of motor fuel sold for consumption in vehicles registered to be operated on the highways. The rate is subject to revision semiannually.

Nebraska also imposes an excise tax on each gallon of aircraft fuel sold within the state. This rate is set by statute and has not changed in several years.

The tax is actually imposed on the consumer; however, state law requires the tax be “pre-collected” from the consumer by the seller. The tax may be “passed-through” to the wholesaler level, provided all parties are properly licensed. For example, the supplier who owns the fuel in the pipeline may sell it tax-free to a licensed distributor who, in turn, may sell it tax-free to a licensed wholesaler. This is the limit to which the tax may be deferred, and if any customer in the chain is not properly licensed, they are charged the tax upon their purchase.

Environmental Fees

Motor fuels and aircraft fuels are also subject to the Nebraska Petroleum Release Remedial Action Fee (PRF) which is generally imposed at the same point as motor fuel and aircraft fuel taxes. This environmental fee is imposed on all motor fuel and aircraft fuel, including dyed diesel. There are three occasions when fuel tax is not due but the PRF is due: (1) sales to Native Americans as reported on Schedule Code 10, (2) gallons disbursed tax free pursuant to a Form 91EX, and (3) dyed diesel. Upon completing the monthly motor fuel tax return, the PRF fees are automatically calculated and included with the motor fuel taxes due.

Environmental fees are not imposed on compressed fuels.

Exempt Sales

There are several bases for exempting fuel sales including:

- Fuel which is exported for exclusive use in a state other than Nebraska.
- Sales to the U.S. Government, its agencies and wholly owned corporations.
- Sales to the Omaha Metropolitan Transit Authority.
- Sales on a Nebraska Indian Reservation to a Native American residing on a Nebraska Indian Reservation. Contact the department regarding special agreements involving sales on Nebraska Reservations.

- Diesel which is indelibly dyed in accordance with IRS guidelines.
- Natural gasoline purchased for use as a denaturant by an ethanol producer.
- Purchases of 50 gallons or less of diesel placed into the supply tank of a temperature control unit (reefer) or power take-off unit not connected to the engine propelling such unit pursuant to a Form 91EX.

Sales to Nebraska Governmental Entities

Nebraska **does not** exempt sales of motor fuels to the state of Nebraska and its agencies, nor to any county or local governmental entities or political subdivisions including school districts, educational institutions, or public or rural power districts.

There is one exception in that these entities are allowed to purchase dyed diesel which is tax-free. They are however, required to remit the applicable state tax on all gallons of dyed diesel consumed in registered motor vehicles.

FUEL TYPES

Motor Fuel

Motor fuel is used in this document as an all-inclusive term describing motor vehicle fuel, diesel fuel, and aviation fuel.

- Motor vehicle fuel includes all products and fuel commonly or commercially known as gasoline, including ethanol and the various ethanol/gasoline blends such as E-10 and E-85. It also includes casing head or natural gasoline which is normally used to denature agricultural ethanol. Tax is remitted by either a licensed producer, supplier, distributor, wholesaler, or importer on a monthly EDI return.
- Diesel fuel includes all combustible liquids suitable for the generation of power for diesel-powered vehicles, including biodiesel and the various biodiesel/diesel blends such as B-2 and B-10. Kerosene is not included under the definition of diesel. However, kerosene is often blended with diesel in cold weather and when blended, the kerosene component loses its identity and becomes an inseparable part of the diesel and is taxed. Tax is remitted by either a licensed producer, supplier, distributor, wholesaler, or importer on a monthly EDI return.
- Aviation fuel includes gasoline or jet fuel suitable for propelling an aircraft. Tax is remitted by either a licensed supplier, distributor, wholesaler, or importer on a monthly EDI return.

Compressed Fuel

Compressed fuel includes compressed natural gas, liquefied petroleum gas, liquefied natural gas, butane, and

any other type of compressed gas or compressed liquid suitable for fueling a vehicle. Tax is imposed upon the retail sale of that fuel when it is placed in the supply tank of a licensed motor vehicle. Tax is remitted as part of the consolidated EDI filing or through use of the “on-line” return located on the department’s Web site.

Alternative Fuel

Alternative fuel includes electricity, solar power, and any other source of energy not otherwise taxed under the motor fuel tax laws which is used to exclusively power a vehicle. This is collected in the form of a \$75 “in-lieu-of” annual fee.

LICENSE

Any person wishing to operate in Nebraska must secure the appropriate licenses. These are obtained by submitting a Nebraska Motor Fuels License Application, Form 20MF. This form is available by request from the department or from our Web site.

There is no application fee for any license. Once issued, the license is permanent and nontransferable.

The following are brief descriptions of the various classes of licensing available.

Motor Fuels or Aviation Fuels

- A. Supplier.** Any person who owns motor fuels imported by barge, barge line, or pipeline and stored at a barge, barge line, or pipeline terminal in this state. Unless sold to an unlicensed purchaser, the supplier may sell the motor fuel without tax to a licensed purchaser (normally a distributor). A supplier’s license allows them to also act as an importer or exporter.
- B. Distributor.** Any person who acquires ownership of motor fuels directly from a producer or supplier at or from a barge, barge line, pipeline terminal, or ethanol or biodiesel facility in this state. Unless sold to an unlicensed purchaser, the distributor may sell the motor fuel without tax to a licensed purchaser (normally a wholesaler). A distributor’s license allows them to also act as an importer or exporter.
- C. Wholesaler.** Any person, other than a producer, supplier, distributor, or importer, who acquires motor fuels for resale. While a licensed wholesaler may purchase motor fuels without tax, due to their level in the chain of distribution, they are not allowed to “pass the tax through” to another purchaser. They must remit the appropriate tax and sell it tax paid to their customer (normally a retailer). A wholesaler’s license allows them to also act as an importer or exporter.
- D. Importer.** Any person who owns motor fuels at the time such fuels enter the state of Nebraska by

any means other than barge, barge line, or pipeline. Importer shall not include a person who imports motor fuels in a tank directly connected to the engine of a motor vehicle, train, watercraft, or airplane for purposes of providing fuel to the engine to which the tank is connected.

- E. *Exporter.*** Any person who acquires ownership of motor fuels from any licensed producer, supplier, distributor, wholesaler, or importer exclusively for use or resale in another state.
- F. *Retailer.*** Any person who acquires motor fuels from a producer, supplier, distributor, wholesaler or importer, for resale to consumers of such fuel. Normally, the seller will be either a wholesaler or distributor who must charge the appropriate motor fuel tax. Because retailers purchase all motor fuels with tax included, they are waived from filing and bonding requirements; however, they are required to be licensed and are subject to periodic field reviews. Refer to the Retailers Information Guide.

Ethanol or Biodiesel Producer

Any person who manufactures agricultural ethyl alcohol (ethanol) or biodiesel at an ethanol or biodiesel facility located in this state. Unless sold to an unlicensed purchaser, the producer will sell the motor fuel without tax to a licensed purchaser (normally a supplier). Refer to the Motor Fuels Ethanol and Biodiesel Producers Information Guide.

Compressed Fuel Retailer

Any person who is engaged in the business of selling or otherwise providing compressed fuel to consumers of the fuel for use in motor vehicles. A compressed fuel retailer also includes any person, other than the consumer of compressed fuel, who has equipment capable of dispensing compressed fuel into a motor vehicle. Tax is imposed on the retail sale of that fuel when it is placed in the supply tank of a licensed motor vehicle or sold for use in a licensed motor vehicle. Tax is remitted as part of the consolidated EDI filing or through use of the “on-line” return located on the department’s Web site. Compressed fuel retailers are required to have a minimum bond of \$1,000 and file returns either monthly, quarterly, or annually. Refer to the Retailer’s Information Guide.

Liquid Fuel Carriers

Any person transporting motor fuels in a transport vehicle (such as a tanker or tank wagon) into, within, or out of Nebraska must obtain a liquid fuel carrier license. A copy of the license must be carried in the transport vehicle whenever motor fuels are carried in this state.

In addition, a copy of the bill of lading, manifest, bill of sale, purchase order, sales invoice, delivery ticket, or similar documentation must be carried in the transport vehicle at all times when transporting motor fuels in Nebraska. Refer to the Liquid Fuel Carriers Information Guide.

Terminal Operators

Any person operating a motor fuel pipeline terminal in Nebraska must have a terminal operator’s license and file an electronic monthly informational report.

SECURITY

All new licensees are required to maintain a surety bond for the first year of their license. The security must be in the form of a bond issued by a surety company licensed and authorized to do business in Nebraska. The bonding requirements apply independently to specific tax programs. The amount of the motor fuels bond must equal at least three times the anticipated monthly motor fuel tax liability, with a minimum bond amount of \$20,000. An aircraft fuels license requires a surety bond equal to at least three times the anticipated monthly aircraft fuel tax liability, with a minimum bond of \$10,000. There is no bonding requirement for the Nebraska Petroleum Release Remedial Action Fees program or Liquid Fuel Carrier license.

During the initial year of a license, the account is monitored to ensure the appropriate bonding level is maintained. If, after that first year, the account is found to be in good standing, the surety bond may be canceled. However, if the account is not in good standing or reported liabilities materially exceed the bonded projections, an extension or increase in the bond may be required.

RETURN FILING REQUIREMENTS

Nebraska’s automated fuel tracking system requires monthly reports of all fuel receipts and disbursements. These returns are required to be filed via electronic data interchange (EDI). The Motor Fuels Web site contains a listing of several commercial vendors from whom this software is available. It also contains a software guide containing the necessary mapping to allow licensees to create the software in-house. Commissions are provided to defer the costs of collecting and remitting the tax and maintaining any required surety bonds. Commissions are not allowed on environmental fees. For those filers having a limited filing responsibility, the department provides the ability to file certain returns on-line. These filings are limited to a motor fuel consumer’s use tax return for governmental entities, a liquid fuel carrier report, and a compressed fuel tax return.

The software provides for the filing of a consolidated monthly return for the following products:

- ❖ gasoline, ethanol, and ethanol blends,
- ❖ undyed diesel and undyed biodiesel blends,
- ❖ dyed diesel and dyed biodiesel blends,
- ❖ kerosene when blended with both undyed and dyed diesel,
- ❖ propane and compressed natural gas, and
- ❖ aviation gasoline and jet fuel.

In addition, because PRF is imposed at the same point as the motor fuel tax, the software automatically computes the appropriate Petroleum Release Remedial Action Fee thereby allowing one payment.

Returns are filed for all activity occurring within a calendar month. The return is considered timely filed if electronically transmitted on or before the 25th day of the month following the close of the reporting month. If the 25th falls on a Saturday, Sunday, or legal holiday, the return will be considered timely filed if transmitted on or before the next succeeding day which is not a Saturday, Sunday, or legal holiday.

Payment

Payment of all liabilities must be remitted no later than the due date of the respective return. While the department encourages payment via electronic funds transfer (EFT), it is not required provided the annual aggregate liabilities do not exceed \$20,000. If this threshold is exceeded, payments must be remitted via EFT.

Penalties and Interest

Penalties are structured in such a manner as to encourage timely filing of returns and payment; however, they automatically escalate if the necessary corrective action is not taken within a prescribed time period.

A late return, regardless of whether there is a tax balance due, receives a \$50 penalty if filed within 10 days of

the due date. If the return is filed beyond 10 days, an additional \$100 penalty is imposed unless there is a tax balance due in which case the additional penalty amount will be either 10 percent of the tax due or \$100, whichever is greater.

Interest is independent of penalties and will be assessed on the unpaid tax at the statutory rate from the due date until payment is received.

Record Requirements

The normal books and records pursuant to the Generally Accepted Accounting Principles established by the American Institute of Certified Public Accountants must be maintained. If the appropriate returns have been filed, records need only be retained for a period of three years. If the appropriate returns have not been filed, a five-year period is open to review. Failure to maintain records for this period could result in assessments being issued based upon the best information available.

REFUNDS

Taxes paid on motor fuels consumed in agricultural, quarrying, industrial uses or consumed in unlicensed motor vehicles and watercraft are subject to refund; provided, the claimed amount of tax exceeds \$25 per calendar year.

Environmental fees (PRF) are subject to refund on fuel exported, destroyed, or purchased by the U.S. Government or its agencies if the claimed amount exceeds \$10 per calendar year.

Claims are submitted on a properly completed Nebraska Motor Fuels Tax Refund Claim, Form 84, and must be filed within three years from the date of purchase of the claimed fuel. See the Information Guide on Motor Fuel Tax Refunds.

For Assistance

Refer to our Web site at: www.revenue.ne.gov/fuels or call toll free 1-800-554-3835.